

Remarks

Reconsideration of this Application is respectfully requested.

Claims 1, 2, 4-6 and 18-25 are pending in the application, with claims 1, 16 and 20 being the independent claims. Claims 3 and 17 have been are cancelled without prejudice to or disclaimer of the subject matter therein. Claims 24 and 25 have been added.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned “**Version With Markings to Show Changes Made.**”

Based on the above Amendment and the following Remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Examination of claims 1-23 and withdrawal of the restriction requirement is respectfully noted and appreciated.

Rejections under 35 U.S.C. § 102

Claims 1-6, 16-19 stand rejected under 35 U.S.C. §102 as being anticipated U.S. Patent 4,598,721 to Stiller et al. (“Stiller”).

The subject matter of claim 3 has been incorporated into claim 1, which recites “wherein said processing step includes agglomerating gathered dust into said particles.” The Action cites Stiller as teaching this feature and states “extruded dust has agglomerated under pressure into a filiform intermediate product at 24”. Reconsideration of the teachings of Stiller is respectfully

requested.

In Stiller, smaller particles in plastified form are compressed in a extruder to form larger particles. Extruding does not constitute agglomeration, i.e., to form larger particles by *gathering* smaller particles together. As discussed in the specification, the preferred embodiment of the present invention forms the larger particles by subjecting the smaller particles to elevated pressures.

Accordingly, claim 1 is distinguishable and allowable over Stiller. Claims 2 and 4-6 depend from claim 1 and are allowable as depending from an allowable claim. Claim 16, similar to claim 1, recites “means for agglomerating,” and is allowable for the reasons discussed above in reference to claim 1. Accordingly, claim 16 is allowable over Stiller. Claims 17-19 depend from claim 16 and are allowable as depending from an allowable claim.

Rejections under 35 U.S.C. § 103

Claims 7-15 and 20-23 stand rejected under 35 U.S.C. §103 as being unpatentable over Stiller and U.S. Patent 4,373,538 to Steiniger.

Claims 7-15 each ultimately depend from claim 1 and are allowable as depending from an allowable claim. Claim 20, similar to claim 1, recites “agglomerating the gathered dust into tobacco particles”, and is allowable for the reasons discussed above in reference to claim 1. Steiniger fails to cure the deficiency in the rejection of claim 1. Accordingly, claim 20 is

allowable over Stiller and Steiniger. Claims 21-23 depend from claim 20 and are allowable as depending from an allowable claim.

New Claims

Claims 24 and 25 have been added to more clearly distinguish over Stiller. Claim 24 specifies that the gathering process does not include extrusion, as in Stiller. Support for this claim can be found, for example, on page 24, lines 12-16, in which extrusion and agglomeration alternatives are described. As discussed in MPEP 2173.05(i) and in *In re Johnson*, 194 USPQ 187 (CCPA 1977), if alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. Claim 25 recites that the particles sizes produced by the gathering step is about 1 mm to about 3 mm. In Stiller, particles about 0.5 mm are stretching into fiber pieces of between 5 to 40 mm. col. 3, lines 29-38. Support for new claim 25 can be found, for example, in Fig. 3 and on page 23, lines 10 and 11.

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Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

A Notice of Allowance with claims 1, 2, 4-16 and 18-25 is respectfully requested.

Date: _____

01/10/03

Respectfully submitted,



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Version With Markings To Show Changes Made

In the Claims:

Please amend claims 1, 4, 16, 18, 19 and 20; cancel claims 3 and 17; and add new claims 24 and 25.

1. (Amended) A method of processing tobacco dust which develops in the course of the making of tobacco-containing products, comprising the steps of:

gathering the dust; and

processing gathered dust into particles having sizes greater than the average size of dust, wherein said processing step includes agglomerating gathered dust into said particles.

4. (Amended) The method of claim 1 [3], wherein said agglomerating step includes compacting gathered dust.

16. (Amended) Apparatus for processing tobacco dust which develops in the course of the making of tobacco-containing products, comprising;

means for gathering the dust; and

means for processing gathered dust into particles having sizes greater than the average size of dust, wherein said processing means includes means for agglomerating gathered dust into said particles.

18. (Amended) The apparatus of claim [17] 16, wherein said agglomerating means includes means for converting dust into particles with the application of pressure.

19. (Amended) The apparatus of claim [17] 16, further comprising means for comminuting at least the particles having sizes exceeding a predetermined size.

20. (Amended) A machine for making smokers' products, comprising:
means for establishing a supply of comminuted smokable material including tobacco dust;

means for segregating the dust from the supply and for [gathering] agglomerating the segregated dust into tobacco-containing particles;

means for converting the dedusted supply into smokers' products; and

means for admitting the particles to the dedusted supply.